

REMARKS

Applicant hereby responds to the Election requirement made in the Office Action.

Election

The Office Action indicated that the pending claims were subject to an Election requirement. The Office Action alleges that "[c]laims 1-17 are generic to a plurality of disclosed patentably distinct species comprising compounds described entirely or partially by the formula (I), for instance the compounds defined when $R^5 = \text{COOR}^7$ and $(\text{PO}(\text{OD}^{10})_2$ ". The Office Action indicates that "the Examiner respectfully requests that the elected species be explicitly defined in terms of the variables of formula (I)."

Applicant believes that the Examiner is suggesting Applicant elects one of carboxyl acid derivatives (COOR^7) and phosphoric acid derivatives ($\text{PO}(\text{OD}^{10})_2$).

Applicant selects carboxyl acid derivatives and hereby elect species of formula (I) wherein R^5 represents on the following residues:

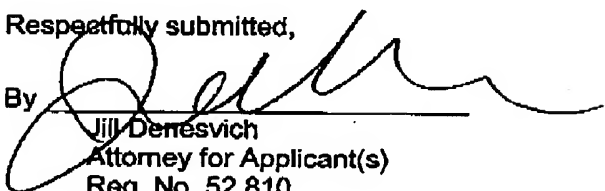
$-\text{COOR}^7$, $-\text{CONR}^8\text{R}^9$, $-\text{CN}$

for further prosecution, with traverse. These compounds are not patentable distinct since they all represent carboxylic acid derivatives. Applicant traverses the restriction requirement because the Examiner has not provided reason or examples in support for the assertion that the claimed invention encompass independent and distinct inventions.

In the absence of reasons or examples supporting the conclusion that the claimed invention comprises independent and distinct invention the election requirement should be withdrawn and all of the claims should be searched and examined together.

Respectfully submitted,

By


Jill Denesvich
Attorney for Applicant(s)
Reg. No. 52,810

Bayer Corporation
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3069
FACSIMILE PHONE NO.:
(412) 777-2612

F:\SHARED\JD\GRA\GRA198 7778 FAX Response restriction requirement.doc

Mo-7095

- 2 -